IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5526 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAVITABEN W/O. GOVINDBHAI B PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MR SUNIL C PATEL for Petitioner

Mr.H.L.Jani, learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the order dt.6.7.99 passed by the Police Commissioner, Surat City whereby the petitioner was detained under the Gujarat Prevention of Anti Social Activities Act, 1985. The detention order was served upon her on 6.7.99 and since then she is under detention

at Baroda Central Jail as ordered by the Police Commissioner, Surat City. The grounds of detention enclosed with the detention order show that there were 2 criminal cases under the Prohibition Act against her. The cases are dated 8.3.99 and 11.3.99 which were pending under investigation. The learned A.G.P. has pointed out that the two witnesses had also deposed against her that she had asked them to store the quantity of 510 and 612 lits. of the liquor. The detention order was confirmed by the Board on 9.8.99 and her representation against detention was rejected on 13.8.99. I called upon the learned A.G.P. to show as to how the pendency of the cases against the petitioner under the Prohibition Act and the act of forcing two witnesses to store the liquor constitute a case of breach of public order justifying detention. According to the settled law as per several Supreme Court decisions, the grounds on which the petitioner has been detained do not constitute a case of breach of public order. The allegations against her at the most constitute a case of breach of law and order. It is hardly sufficient to justify the detention under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985.

Accordingly the detention order dt.6.7.99 passed by the Police Commissioner, Surat City therefore cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained otherwise under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

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